

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	No. 4:13CR104
	§	Judge Crone
TERRA LASHA JACKSON (1)	§	
a.k.a. "Nonnie" aka "Noonie"	§	
MARADA CHATEL ALLEN (4)	§	
CHAZITI CHRISHUNE DUNN (5)	§	
TALIA JANAY MAXEY (6)	§	
LUCY LEE-SHONE SMITH (7)	§	
DAMYION DELONEY (8)	§	
GARIESHA CURLIN (9)	§	
a.k.a. "Pig"	§	

MOTION TO DISMISS THE INDICTMENT

The United States of America moves the Court to dismiss the indictment against these defendants in this cause without prejudice pursuant to Rule 48(a), Fed. R. Crim. P.

The grand jury returned the indictment pursuant to which defendant was indicted more than 24 months following the date of impaneling of the grand jury, although less than 24 months following the date on which the grand jury first received evidence. The Fifth Circuit has not addressed whether the grand jury's term prescribed by Fed. R. Crim. P. 6(g) dates from the date of impaneling or the date on which the grand jury first heard evidence. However, courts that have addressed the issue have consistently held that the grand jury's term is calculated from date of impaneling. *See, e.g., United States v. Armored Transport, Inc.*, 629 F.2d 1313, 1316 (9th Cir. 1980). The government thus concedes that the

indictment pursuant to which the defendant was convicted and sentenced is invalid because it was returned by a grand jury whose term had expired.

The government has commenced a subsequent prosecution against the defendant for the same offense. Both 18 U.S.C. §§ 3288 and 3289 provide for re-indictment within a stated time period following dismissal of an indictment “for any reason.” Therefore, the government requests that the dismissal of the indictment in this cause be without prejudice.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent via e-mail transmission on this 5th day of June, 2015.

/s/
Camelia Lopez